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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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07/11/2005

Shalom Levin

1911

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62433

7590

10/20/2008

EDWARD LANGER

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1 PENN PLAZA-SUITE 2527

NEW YORK, NY 10119

EXAMINER

ALEXANDER, REGINALD

ART UNIT

PAPER NUMBER

3742

MAIL DATE

DELIVERY MODE

10/20/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/522,982	Applicant(s) LEVIN, SHALOM	
	Examiner Reginald L. Alexander	Art Unit 3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-115, 117 and 124-127 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 97-102 is/are allowed.
- 6) ☒ Claim(s) 80, 83, 85, 86, 92-94, 96, 106, 107, 109 and 124-127 is/are rejected.
- 7) ☒ Claim(s) 82, 84, 87-91, 95, 111-115, 117 and 123 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 106, 109 and 124-127 are rejected under 35 U.S.C. 102(a) as being anticipated by Heczko.

There is disclosed in Heczko a brewing device, comprising: a cup unit including an inner cup 42 and an outer cup 12 integrally formed with the inner cup, the inner cup being spaced apart from the outer cup and defining a chamber 44 for holding liquid therebetween; a heating unit 22; a brewing element 70, 104 fitting on the inner cup, the brewing element having a pocket 82, 122 containing a beverage material 84, 126 and an outlet (figs. 5, 6) proximate to a periphery of the outer cup.

In regards to claims 124 and 126, it has been held that to be entitled to weight in method claims, the recited structure limitations therein must affect the method in a manipulative sense, and not to amount to the mere claiming of a use of a particular structure. Thus, the two welded rings recited in the claims have been given no patentable weight.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 107 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heczko in view of Chang.

Chang discloses the use of ribs mounted externally of a support cup, the ribs providing protection for the user when the cup is filled with a hot liquid, the projection of the ribs serving as a means to dissipate heat.

It would have been obvious to one skilled in the art to provide the external cup of Heczko with the ribs taught in Chang, in order to strengthen the cup.

Claims 80, 81, 85, 86, 92-94 and 96 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klein in view of Oakley and Lee et al.

There is disclosed in Klein a brewing apparatus, comprising: a container 20 for containing a liquid; a heating element 32 housed in a heating chamber; a pump 29 for drawing liquid from and returning liquid to the container; a sealed compartment having a beverage preparation element 11, the sealed compartment being in the container and having therein a beverage material 15; and dispenser means including a nozzle 19 and pressure generated within the sealed compartment by entry of hot water.

Oakley discloses the use of a controller in an electrically operated brewing apparatus to control a pump and heater.

Lee discloses the use of a heating/cooling element 60 operable on the Peltier principle for heating/cooling a liquid.

It would have been obvious to one skilled in the art to provide the apparatus of Klein with the controller taught in Oakley, in order to organize and automatically operate the elements (pump and heating unit) of the invention.

It would have been obvious to one skilled in the art to substitute the heating element of Klein with the heating/cooling element taught in Lee, in order to provide an alternative means for heating the liquid. Additionally, such an element would allow for a cooling of the liquid as well.

Allowable Subject Matter

Claims 82, 84, 87-91, 95, 111-115, 117 and 123 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 97-102 are allowed.

Response to Arguments

Applicant's arguments with respect to claims 80, 83, 85, 86, 92-94 and 96 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed 12 August 2008 have been fully considered but they are not persuasive. Applicant argues that Heczko discloses inner and outer containers which are threaded together as opposed to being integrally formed. It should be noted that a threaded engagement is defining of an integral connection.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reginald L. Alexander whose telephone number is 571-272-1395. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3742

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Reginald L. Alexander/
Primary Examiner, Art Unit 3742